

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING - November 17, 1971

Appeal No. 10979 Citizens Association of Georgetown, appellants.

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, appellee.

On motion duly made, seconded and carried with Messrs. Samuel Scrivener, Jr. and Howard H. Mackey dissenting, the following Order of the Board was entered at the meeting of November 23, 1971.

EFFECTIVE DATE OF ORDER - Feb. 4, 1972

ORDERED:

That the appeal from a decision of the Acting Zoning Administrator given July 8, 1971 concerning parking requirements for proposed restaurant at 3040 M Street, NW. under Sections 7201 and 7202 of the D.C. Zoning Regulations on grounds: (1) Exclusion of cellar area for calculation; (2) Classification of 325 seat restaurant as a retail or service establishment rather than a place of public assemblage and; (3) Expressed intention of Zoning Administrator to authorize certificate of occupancy even though required parking spaces do not fully meet the specifications of the Zoning Regulations, be partially granted and partially denied.

FINDING OF FACTS:

1. The subject property is located in a C-2-A District.
2. The property is improved by a brick building now partially used for three (3) movie theatres seating 511 persons.
3. It is proposed to install in the cellar a restaurant seating 325 persons. The entire restaurant will be below the first floor joists.
4. The Zoning Administrator on July 8, 1971 ruled that the proposed restaurant was entitled to a certificate of occupancy.

Appeal No. 10979
February 4, 1972
PAGE 2

5. The Zoning Administrator computed the parking requirement at 67 spaces.

6. The Citizens Association of Georgetown appealed the Zoning Administrator's ruling on three points:

- (1) That the cellar area should be included in computing the number of required parking spaces.
- (2) That a restaurant is a place of public assemblage rather than a retail and service establishment, for purposes of computation of the number of required parking spaces.
- (3) That the spaces provided to comply with parking requirements do not, in fact, comply because the size of some of the spaces are smaller than required by Regulations.

7. Objection to the granting of this appeal was registered at the public hearing.

OPINION:

The question presented to the Board for determination in this appeal is whether, on the facts of record, the Acting Zoning Administrator erred in granting a certificate of occupancy in his decision given July 8, 1971 concerning parking requirements for the proposed restaurant under Sections 7201 and 7202 of the D.C. Zoning Regulations.

We concur with the Zoning Administrator's ruling that:

- (1) Cellar area should be excluded in calculating the number of parking spaces required for the restaurant.

Appeal No. 10979
February 4, 1972
PAGE 3

- (2) A restaurant is a retail and service establishment rather than a place of public assemblage.

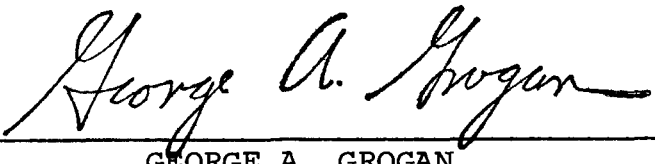
We disagree with the fuling of the Zoning Administrator authorizing a certificate of occupancy even though some of the required parking spaces are smaller than required by the Zoning Regulations. Our decision in this part of the case is based upon Section 7204.1:

"All required parking spaces shall be at least 9 feet in width, 19 feet in length, exclusive of access drives, aisles, ramps, columns, and office or work area, and have a vertical clearance of at least six and one-half feet."

We, therefore, affirm the Zoning Administrator's decision on points one and two and reverse it on point three. Appellant may appeal for a variance from the section of the Zoning Regulations quoted above.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED:

By: 

GEORGE A. GROGAN
Secretary of the Board